

**Comments on the National Do Not E-Mail Registry
CAN-SPAM Act Rulemaking, Project No. R411008**

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The CAN-SPAM Act requires the Federal Trade Commission to set forth a plan for establishing a nationwide marketing Do-Not-E-Mail registry. I write to urge the Commission to include a provision for domain-wide entries in this proposed registry, and to provide that the registry apply only to unsolicited messages.

1. The registry should include domain names.

A registry comprised solely of individual e-mail addresses presents substantial concerns of privacy and security. Even if these concerns are satisfactorily addressed in the design of the registry, it is likely that they will result in a low participation rate among Internet users. The need to submit each individual e-mail address separately also may present a substantial burden for individuals who receive mail at a large number of distinct addresses. A related problem with limiting the registry to individual e-mail addresses is the immense size of the registry that would likely result—potentially many orders of magnitude larger than the tens of millions of telephone numbers in the National Do-Not-Call Registry. All of these concerns could be minimized by permitting Internet service providers, employers, and other domain name registrants to submit their domain names for inclusion in the registry, reducing or eliminating the need to include individual e-mail addresses.

By submitting a domain name for inclusion in the registry, the submitter would be warranting that all authorized users of e-mail addresses within the domain name have requested or consented to its inclusion. Internet service providers and employers could choose to require their subscribers and employees to furnish such consent, and Internet users who object to receiving less unsolicited commercial e-mail could seek out a provider without such a requirement.

Verification of submissions to the registry is not essential, because little or no damage results from including a domain name without proper authorization. However, for most domain names, it would be fairly easy to verify submissions via an automated process, using contact information from publicly accessible domain registration (“whois”) records. An adequate verification method for requests to remove an entry from the registry is essential, although this process need not be automated.

2. The registry should apply only to unsolicited messages.

The registry should apply only to unsolicited messages, not to all “commercial electronic mail messages” as that term is defined in the CAN-SPAM Act. While many consumers may object to solicitations sent by businesses to their own customers, market dynamics and other CAN-SPAM provisions are probably sufficient to address such concerns. On the other hand, many Internet users and domain name registrants would likely decline to be listed in the registry if the effect were to restrict communications between businesses and their existing customers. Applying the registry only to unsolicited communications would therefore increase participation substantially.